

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 12-20845

v.

HON. ARTHUR J. TARNOW

D-1 JOSUE ORTIZ-HEREDIA,

Defendant.

_____ /

**United States' Brief Relating to
the Defendant's Petition for Compassionate Release (R. 35)**

Defendant Josue Ortiz-Heredia has filed a Petition for Compassionate Release (R. 35). He began serving his current 120-month sentence for Conspiracy to Possess with Intent to Distribute 1 Kilogram or more of Heroin on February 22, 2013. His projected release date is May 7, 2021. Including the time he was detain before sentence, he has served over 90% of his sentence. Mr. Ortiz-Heredia is a citizen of Mexico and was illegally in the United States when he committed this offense. He is currently the subject of an Immigration and Customs Enforcement (ICE) detainer and a final order of removal. Mr. Ortiz-

Heredia has raised concerns regarding the health risks he faces as a result of his obesity, hypertension, type II diabetes, and the COVID-19 pandemic in his pending motion for compassionate release under 18 U.S.C. § 3582(c)(1)(A).

The government does not dispute that Mr. Ortiz-Heredia's health concerns qualify as an "extraordinary and compelling reason" for release. And both the medical director and the warden at his facility agree that this is the case. With the caveat that circumstances can always change, it should be noted that as of February 4, 2021, BOP's website indicates that Giles Dalby CI, where Mr. Ortiz-Heredia resides, currently has one positive case of COVID among its prison population.

Having handled the sentencing of Mr. Ortiz-Heredia, the Court is well-versed in the background and facts of this case, so the government will defer to the Court's judgment on how best to weigh the § 3553(a) factors in determining the appropriateness of release. The government will point out just a few matters for the Court's consideration. As the Court is aware, Mr. Ortiz-Heredia's crime of conviction was serious. Mr. Ortiz-Heredia used couriers to transport approximately 2.5 kilograms of heroin from south-west border-states to Detroit, Michigan.

Additionally, a search of his residence resulted in the seizure of a stolen firearm which he admitted to buying “off the street.” Mr. Ortiz-Heredia was not held responsible for possessing the stolen weapon, or for the 7 kilograms of heroin he admitted to selling before his arrest.

In assessing Mr. Ortiz-Heredia’s potential dangerousness if released, the Court will also want to consider his record at the time of his crime in 2012. Although he had no prior record at the time of his arrest, Mr. Ortiz-Heredia was not a citizen of the United States, and we do not know if he has a record in Mexico. We do know that it was not the first time he was in the United States illegally. On July 9, 2000, Mr. Ortiz-Heredia was found in the United States without authority and was removed back to Mexico. Mr. Ortiz-Heredia’s drug offenses were not minor and involved more drugs and criminal behavior than he was held accountable for in the instant case. However, it appears that he was employed in the construction industry at the time of his arrest.

With these matters in mind, as well as the facts set forth in the presentence report, and Mr. Ortiz-Heredia's medical and disciplinary record while in prison, the government defers to the Court to weigh the § 3553(a) factors in determining the appropriateness of release.

Respectfully submitted,

SAIMA S. MOHSIN
Acting United States Attorney

s/ Karen L. Reynolds
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
Phone: (313) 226-9672
E-Mail: karen.reynolds@usdoj.gov
Bar No. P31029

Dated: February 4, 2021

Certificate of Service

I certify that on February 4, 2021, I electronically filed this document with the Clerk of the Court of the Eastern District of Michigan using the ECF system which will send notification of such filing to all counsel of record.

s/ Karen L. Reynolds
Assistant U.S. Attorney
United States Attorney's Office